

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES EUGENE BOWDIDGE,

Defendant-Appellant.

UNPUBLISHED

July 28, 2000

No. 218638

Hillsdale Circuit Court

LC No. 98-228227

Before: McDonald, P.J., and Neff and Zahra, JJ.

PER CURIAM.

Defendant appeals, as of right, his convictions of assault with a dangerous weapon, MCL 750.82; MSA 28.277, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). We affirm.

On November 1, 1998, around midnight, two Michigan state troopers went to defendant's trailer looking for defendant's fiancée, who had called 911 to report a domestic assault. The troopers parked their marked police car in defendant's driveway, leaving its engine running and its headlights on. The troopers testified that as they walked to the front door, defendant walked around the south end of the trailer and stood in front of the troopers holding, at waist level, a shotgun that was pointed at them. The troopers fled immediately, within seconds, without injury or shots being fired.

On appeal defendant challenges the sufficiency of evidence used to convict him. Specifically, he argues that there was insufficient evidence of his intent to cause the victims to reasonably fear an imminent battery. In reviewing the sufficiency of the evidence, this Court views the evidence in the light most favorable to the prosecution, to determine whether any rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).

Felonious assault is a specific intent crime which requires proof of 1) an assault; 2) with a dangerous weapon; 3) with the intent to injure or to place the victim in reasonable apprehension of an immediate battery. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). When specific intent is an element of an offense, as in this case, there must be evidence of the defendant's intent to

bring about the particular result the statute seeks to prohibit. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983). Intent may be proven indirectly, by inferences that logically and reasonably flow from a defendant's conduct and the surrounding circumstances. *People v Lawton*, 196 Mich App 341, 349; 492 NW2d 810 (1992).

A rational jury could have found proof beyond a reasonable doubt that defendant intended to cause the two troopers to fear an imminent battery, and therefore defendant's convictions for felonious assault are based upon sufficient evidence. Defendant testified that he saw two people walking toward the door when he came around the side of his trailer. Defendant testified that he did not believe that the gun was pointing "anywhere near directly at them," but he did not assert that he altered the position of the gun once he saw the men, nor did he suggest that the gun was held in a resting position. However, both troopers testified that they saw defendant holding the gun at waist level, pointed directly at them. "Inherent in the task of considering the proofs in the light most favorable to the prosecution is the necessity to avoid a weighing of the proofs or a determination whether testimony favorable to the prosecution is to be believed. All such concerns are to be resolved in favor of the prosecution." *People v Herbert*, 444 Mich 466, 474; 511 NW2d 654 (1993), overruled in part on other grounds in *People v Lemmon*, 456 Mich 625; 576 NW2d 129 (1998), citing *Wolfe*, *supra* at 514-515. There also was evidence which suggested that defendant was aware of other people on his property before he walked around the end of his trailer. The troopers had parked their marked car in defendant's driveway, with its lights on and engine running. The jury could have reasonably concluded that defendant intentionally approached the troopers with his gun pointed forward, to cause them to fear an imminent battery.

We affirm defendant's convictions for felonious assault and, therefore, do not reach defendant's argument that a reversal of the felonious assault convictions would require reversal of his felony-firearm conviction.

Affirmed.

/s/ Gary R. McDonald

/s/ Janet T. Neff

/s/ Brian K. Zahra